

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	)	MDL NO. 1456
	)	
	)	CIVIL ACTION NO. 01-CV-12257-PBS
	)	
THIS DOCUMENT RELATES TO	)	Judge Patti B. Saris
	)	
	)	
STATE OF NEVADA V. AMERICAN HOME PRODUCTS, ET AL.	)	
CIVIL ACTION NO. 02-CV-12086-PBS	)	
	)	
STATE OF MONTANA V. ABBOTT LABORATORIES, ET AL.	)	
CIVIL ACTION NO. 02-CV-12084-PBS	)	
	)	

**DECLARATION OF DOUGLAS B. FARQUHAR IN SUPPORT OF  
WATSON PHARMACEUTICALS INC.'S MOTION TO DISMISS**

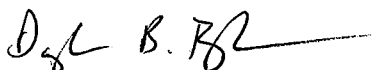
1. I am a member of the firm Hyman, Phelps & McNamara, P.C., counsel for defendant Watson Pharmaceuticals, Inc. ("Watson"). I submit this Declaration in support of Watson's Motion to Dismiss the State of Montana's Second Amended Complaint and the State of Nevada's Amended Complaint (collectively the "Amended Complaints").

2. On August 1, 2003, the states of Montana and Nevada filed Amended Complaints adding Watson as a defendant in these civil actions. During the first week of August, 2003, I received copies of the Amended Complaints. However, neither Watson nor my office has received a summons for either of these Amended Complaints, and Watson has not been properly served with the Amended Complaints.

3. Shortly after the Amended Complaints were filed, I received a voicemail message from Edward Notargiacomo, counsel for the plaintiffs. He asked if I would accept service on behalf of Watson. I spoke with him on August 12, 2003 and told him that he should send me a written request for waiver of service under Federal Rule of Civil Procedure 4(d). I also told him that, once I received the written request for waiver of service, I would ask my client whether I was authorized to accept service of process. I never received the written request for waiver of service and to date have not heard from him again on this issue, other than in response to my request for his clients' position on the motion filed contemporaneously with this Declaration.

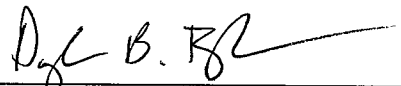
4. I did not receive the notice contemplated by Local Rule 15.1, required at least ten days in advance of filing a motion to amend a pleading by adding a new party. I believe that Watson was not named as a party in either matter prior to the filing of the Amended Complaint.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Washington, D.C., this 24<sup>th</sup> day of November, 2004.

  
\_\_\_\_\_  
Douglas B. Farquhar

**CERTIFICATE OF SERVICE**

I hereby certify that on November 24, 2004, I caused copies of the foregoing Motion to Dismiss, Memorandum of Law in Support of the Motion to Dismiss, and Declaration of Douglas B. Farquhar to be served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.

  
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Douglas B. Farquhar